

JAN 14 2008

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Application No.: 10/804,381

Inventor(s): Scott Edward Osborne et al.

Filed: March 19, 2004

Docket No.: 7892C

Confirmation No.: 7273

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/804,381  
Inventor(s) : Scott Edward Osborne et al.  
Filed : March 19, 2004  
Art Unit : 1615  
Examiner : Lakshmi Sarada Channavajjala  
Docket No. : 7892C  
Confirmation No. : 7237  
Customer No. : 27752  
Title : COMPOSITIONS FOR EFFICIENT RELEASE OF  
ACTIVE INGREDIENTS

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

This Reply Brief is filed in response to the Examiner's Answer dated November 16, 2007.

*Argument begins on page 2.*

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Docket No. 7892C  
Reply Brief dated January 14, 2008  
Reply to Examiner's Answer mailed on November 16, 2007  
Customer No. 27752

### ARGUMENT

In response to the Examiner's Answer dated November 16, 2007 and in further support of Appellants' assertion that the combination of Roe et al. and Johansson et al. under 35 U.S.C. §103(a) is improper, please consider the following arguments.

The invention of Johansson et al. is directed to the problems associated with allergic contact dermatitis caused by the contact of nickel to skin. Johansson et al. describe that this problem can occur on the hands by contact with nickel associated with occupations such as platers, metal workers, cashiers, hairdressers or office workers, on the stomach caused by nickel-containing jeans buttons, or on the ear lobes caused by earrings. *See* col. 1, lines 26-29.

In an attempt to treat this type of allergic contact dermatitis, the invention of Johansson et al. is directed to the combination of a chitosan material with an anionic anti-allergenic substance, such as EDTA or DTPA, which have the ability to chelate allergenic metals such as  $\text{Ni}^{2+}$ ,  $\text{Cr}^{3+}$ ,  $\text{Cr}^{6+}$ ,  $\text{Co}^{2+}$ ,  $\text{Au}^{+}$ , and  $\text{Au}^{3+}$ . *See* col. 8, lines 16-35. The cationic chitosan material complexes with the anionic anti-allergenic substance to form a hydrophilic polymer gel that serves as a topical barrier formulation on the skin. *See* col. 8, lines 36-46. Therefore, unless a composition contains an anionic anti-allergenic substance, Johansson et al. provides no reason for one skilled in the art to add chitosan material to a composition.

In contrast to Johansson et al., the invention of Roe et al. is directed to the problems associated with the adherence of bowel movements to the skin. The problem addressed by Roe et al. is of a very different nature than that of Johansson et al. One skilled in the art would not expect allergic contact dermatitis to be caused by nickel in the areas of the body to which the invention of Roe et al. is directed, e.g. the genital or gluteal areas of the body. Therefore, one skilled in the art would not look to the teachings of Johansson et al. to address the problems related to the adherence of bowel movements to the skin, to which the invention of Roe et al. is directed.

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Docket No. 7892C  
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Furthermore, Roe et al. do not disclose or suggest compositions that contain an anionic anti-allergenic substance as required by Johansson et al. As a result, one skilled in the art would have no reason to incorporate a chitosan material in the lotion compositions of Roe et al., as Johansson et al. require a chitosan material to be in combination with an anionic anti-allergenic substance in order to address the problems of allergic contact dermatitis caused by nickel.

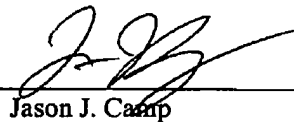
For the reasons set forth in Appellants' Appeal Brief dated May 16, 2007, and the additional reasons set forth herein, Appellants submit that the combination of Roe et al. and Johansson et al. is improper and that the Examiner has thus failed to establish a *prima facie* case of obviousness. Appellants therefore respectfully submit that Claims 1-9 and 11-19 are unobvious and patentable under 35 U.S.C. §103(a) over Roe et al. in view of Johansson et al.

#### SUMMARY

In view of all of the above, it is respectfully requested that the rejections be reversed and Claims 1-9 and 11-19 be allowed.

Respectfully submitted,

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Date: January 14, 2008

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